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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on
Economic, Social and Cultural Rights

UKRAINE

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1. The Committee considered the third periodic report of Ukraine (E/1994/104/Add.4) at its 42nd, 44th and 45th meetings on 28 and 29 November 1995 and adopted1/ the following concluding observations.

A. Introduction

2. The Committee welcomes the third periodic report submitted by Ukraine, the first to be considered by the Committee since the State party achieved independence in 1991. The Committee notes with satisfaction that the report complies with its Revised general guidelines for the preparation of reports and was well complemented by the written answers presented in response to the Committee's list of issues. It further takes note of the detailed oral answers to its questions by the delegation headed by the Minister of Labour of Ukraine. The Committee expresses its appreciation for the frank responses and willingness of the State party to provide additional information as requested by Committee.

B. Positive aspects

3. The Committee welcomes the legislation passed in recent years, including the Ukrainian Act on State Succession, the Act on the Effect of International Agreements on Ukrainian Territory, the Declaration on the Rights of Nationalities of the Ukraine, all adopted in 1991 and the Act on Ukraine's International Treaties of 1993. According to these laws, the

1/ At its 57th meeting on 7 December 1995.

international human rights instruments to which Ukraine is a party constitute an integral part of national law. The Committee further welcomes the recent establishment of the National Centre for Human Rights, which should work closely with international and national human rights organizations and institutions.

4. The Committee notes the progress achieved toward securing representation for the Crimean Tatars in the Parliament of the Autonomous Republic of Crimea and the modest success in reintegrating them into the region.

5. On the right to employment, the Committee notes with satisfaction the efforts made by the Government to help the unemployed find new employment by establishing the State Employment Service whose tasks are to provide them with guidance and training, as well as with material assistance.

6. The Committee welcomes the substantial budgetary allocation to social protection. It notes with satisfaction the social security legislation introduced with the intention to protect pensioners, children, persons with disabilities and others unable to care for themselves, and it further takes note of the fact that the mechanisms to distribute benefits were established in time to help the needy prepare for the last winter season. It welcomes the provision of special subsidies to allow persons living in poverty to satisfy their basic needs and to make it possible for certain vulnerable groups to meet their payment obligations toward communal services and housing. It also views with satisfaction that the elderly continue to benefit from free transportation and other special social services. It also welcomes the attention given to mothers with young children and to single mothers.

7. The Committee notes the efforts made by the Government and the institutions concerned to ensure health services to all and to fight the nefarious health consequences of the Chernobyl nuclear accident of 1986.

8. The Committee views with satisfaction the general success in maintaining compulsory free primary education in the State party. It also expresses satisfaction about the efforts made to ensure enjoyment of cultural rights, including the considerable proportion of the national budget allocated to culture.

9. The Committee views with satisfaction the fact that the Government has been making effective use of international assistance provided with respect to the grave effects of the Chernobyl nuclear accident and to overcome its current economic difficulties.

C. Factors and difficulties impeding the implementation of the Covenant

10. The Committee notes that the State party is passing through an extremely turbulent period in its existence due to the deep political, economic and social reforms it is undertaking, consequent to its recent constitution as an independent State. The difficulties encountered are aggravated by the legislative vacuums that exist in many areas. It notes that the elections for Parliament have not been completed and that a new draft constitution has not been adopted. Until new legislation is adopted, many of the laws in force in the Ukraine, as part of the former USSR, continue to apply unless found to be in direct contradiction with its new laws.

11. The Committee notes that the immediate costs of economic transition have included, in Ukraine, a steep decline in national production, balance of payments deficit and an uncontrollable inflation over the past several years. It notes in this connection that the State party is highly dependent on

foreign energy supply. The dramatic rise in price for energy imports since independence has induced an enormous increase in the domestic price index. It also notes that efforts to privatize public enterprises have already led to rising levels of unemployment, although, at present, economic reforms are only at the initial stages. Having in mind the experience of other countries of the region, the Committee is aware that a full transition to a market economy in the Ukraine will require much time and a radical change in the economic and social concepts and behaviour.

12. At the same time, the Committee notes that a large number of individuals who were deported in different parts of the former USSR are returning to their places of origin in Ukraine and are seeking jobs and shelter. Solving these problems puts further strain on resources at the disposal of the Government and will demand special attention from the authorities.

13. Finally, it appears that the Government has been unable to establish mechanisms for comprehensive data-collection. It notes that the population data presented to it dated back to a 1989 census and draw the attention of the Government that such outdated or insufficient data would not serve as a good basis for Government policy.

D. Principal subjects of concern

14. The Committee expresses its concern over the sharp decline of purchasing power of the great majority of the population and the subsequent deterioration of its standard of living due to the overall unfavourable evolution of the economic situation in Ukraine.

15. The Committee calls attention to the difficulties experienced by members of minority groups, including the Crimean Tatars, which were deported decades earlier and are now returning to resettle in Ukraine, on the land of their ancestors. The Committee considers that the failure to resolve the question of citizenship for the Crimean Tatars is not in conformity with States' parties obligations under the Covenant.In particular, the Committee is concerned that the consequent exclusion of such persons from certain social indicators, such as those about employment and poverty, may deprive them of the full enjoyment of their economic, social and cultural rights. In this connection, it recalls the provisions of article 2, which states that the rights enunciated in the Covenant must be exercised without discrimination of any kind, inter alia, as to national or social origin.

16. The Committee expresses grave concern over the lack of practical measures aimed at creating adequate working conditions for women and for eliminating discrimination against them. The Committee is concerned about the possible discriminatory effects of imposing different retirement ages for men and women, particularly in market economies where one's standard of living and professional fulfilment depend largely on his or her employment. In this light, the current national debate, in which the maintenance of varying retirement ages is contemplated, is a subject of concern. The Committee is concerned with the violence perpetrated against women, the generally low professional qualifications of women and their consequently high representation among low-paid workers and the unemployed. In this connection, it considers that the Government and all the authorities have not made all necessary efforts in order to understand and face the phenomenon of discrimination, by collecting and analyzing relevant data, by trying to eliminate it through legislative measures and education and to provide protection to victims of discrimination and violence against women.

17. The Committee is concerned at the excessive number of industries and other employment activities in which organization of trade unions is prohibited. Workers in civil aviation, communications and other sectors are

subject to such prohibition. In this connection, the Committee takes note of the draft law which would restrict the sectors under prohibition to only those in which a cessation of operation would disrupt the whole economy, threaten national security or public order.

18. The Committee regrets the lack of data on the situation of children, particularly orphans and those with disabilities, which may cause ineffective monitoring of their enjoyment of economic, social and cultural rights.

19. The Committee notes with concern that social services are not adequate to ensure a minimal standard of living for the most vulnerable groups, including pensioners, unemployed persons, persons with disabilities and non-citizens.

20. Attention is called to the fact that the official minimum wage is far below the level of the official poverty line. The Committee further regrets the lack of information presented on the extent to which inflation is taken into account where determining the poverty line and the level of the pensions or material assistance provided to these groups.

21. The Committee recalls that the fulfilment of the right to education involves an obligation for the Government to provide free primary education for all, including children with disabilities and children assigned in homes or institutions. The Committee regrets the absence of information with regard to human rights education.

E. Suggestions and recommendations

22. The Committee recommends that the international human rights instruments to which Ukraine is a State party, including the Covenant, be made fully applicable by Ukrainian courts. Steps toward this end would include making the instruments widely known so that the general public as well as law enforcement officials be made aware of the rights contained therein.

23. The Committee recommends that, in the next periodic report, the Government include detailed information on the mandate and operation of the National Centre for Human Rights. Such information should include, in particular, whether individual complaints about human rights violations can be lodged with the Centre and whether its mandate includes the protection and promotion of economic, social and cultural rights.

24. The Committee recommends that the civil status of the repatriated members of minorities, especially the Crimean Tatars, be regularised as soon as possible. It recommends that steps be taken immediately to fully reintegrate them into the region and to guarantee their rights to work and to an adequate standard of living, as defined under article 11. The Committee recommends that every effort be made in order to obtain international assistance toward this end.

25. The Committee recommends that specific legislative measures be taken to prohibit all forms of gender-based discrimination and that efforts be made, including through the educational system, to promote awareness and understanding of the human rights of women. The Committee further recommends the establishment of institutions to provide protection and assistance to victims of violence and discrimination.

26. The Committee recommends that, in the next report, the Government include information on any developments regarding the new legislation regulating the trade unions rights, including the right to strike.

27. The Committee urges the Government to elaborate, as part of the preparatory work for the 1996 United Nations Conference on Human Settlements (Habitat II), a comprehensive national plan of action with respect to housing and to make it available to the Committee, along with information on its subsequent implementation, in time for the consideration of the fourth periodic report. In this connection, the Committee recommends that the next report also include detailed information on the 1992 State Privatization Act, as well as any other housing laws that might be enacted in the meantime, and their impact on the enjoyment of the right to adequate housing by the people of Ukraine.

28. The Committee recommends that the Government continue to make full use of international assistance in the collection and analysis of data in general, which would include data regarding the most vulnerable groups of persons and in addressing their needs. Such categories of persons include pensioners, the unemployed, children with disabilities and children assigned to homes or institutions, members of repatriated minority groups and victims of the Chernobyl accident. With respect to the latter group, the Committee urges that special assistance and medical care be further granted to the persons concerned and that special measures continue to be taken to clean the environment and to dispose of contaminated objects and consumable items with which people may come into contact.

29. The Committee recommends that steps be taken to incorporate human rights education in all schools curricula, in accordance with the goals and objectives of the Decade for Human Rights Education and that education in the field of human rights be provided to law enforcement officials.

30. The Committee suggests that the Government may request the United Nations Centre for Human Rights to evaluate the assistance needs of the Ukraine in order that the latter may eventually draw upon the technical assistance programmes available from the Centre, in particular for the Ukrainian National Centre for Human Rights.